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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DUANE JOHNSON, ) Case No. C-07-3563  
Plaintiff/Petitioner, )  
vs. ) PLAINTIFF'S RESPONSE TO  
UNITED STATES OF AMERICA, ) DEFENDANT'S MOTION TO DISMISS  
Defendants. ) Date: October 23, 2007  
 ) Time: 9:00 a.m.  
 ) Place: 15<sup>th</sup> Floor, CRE

In that the Internal Revenue Service has withdrawn the summon which was illegally issued and served in violation of Title 26, United States Code Section 7609 such as to "moot" the issue before this Court, the Plaintiff does not oppose the motion to dismiss due the issue of "mootness" as there remains no case and controversy.

Date: September 7, 2007

DAY LAW OFFICES

/s/ Montie S. Day

BY: \_\_\_\_\_

Montie S. Day, Attorney